

RECODIFICATION OF NATURAL RESOURCES**CODE - CHAPTER 5**

2009 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill renumbers and amends provisions relating to Recreational Trails.

Highlighted Provisions:

This bill:

- ▶ amends and renumbers Title 63, Chapter 11a, Recreational Trails;
- ▶ repeals the Centennial Nonmotorized Path and Trail Crossing Program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-2-117.5, as last amended by Laws of Utah 2008, Chapter 286

RENUMBERS AND AMENDS:

79-5-102, (Renumbered from 63-11a-101, as enacted by Laws of Utah 1991, Chapter 144)

79-5-103, (Renumbered from 63-11a-102, as enacted by Laws of Utah 1991, Chapter 144)

79-5-201, (Renumbered from 63-11a-401, as enacted by Laws of Utah 1991, Chapter 144)

79-5-202, (Renumbered from 63-11a-402, as last amended by Laws of Utah 1999, Chapter 270)

79-5-301, (Renumbered from 63-11a-201, as enacted by Laws of Utah 1991, Chapter 144)

32 **79-5-302**, (Renumbered from 63-11a-103, as last amended by Laws of Utah 2008,
33 Chapter 308)
34 **79-5-303**, (Renumbered from 63-11a-202, as enacted by Laws of Utah 1991, Chapter
35 144)
36 **79-5-304**, (Renumbered from 63-11a-203, as last amended by Laws of Utah 1993,
37 Chapter 281)
38 **79-5-401**, (Renumbered from 63-11a-301, as last amended by Laws of Utah 1993,
39 Chapter 281)
40 **79-5-501**, (Renumbered from 63-11a-501, as last amended by Laws of Utah 2000,
41 Chapter 20)
42 **79-5-502**, (Renumbered from 63-11a-502, as enacted by Laws of Utah 1991, Chapter
43 144)
44 **79-5-503**, (Renumbered from 63-11a-504, as enacted by Laws of Utah 1999, Chapter
45 342)

46 ENACTS:

47 **79-5-101**, Utah Code Annotated 1953

48 REPEALS:

49 **63-11a-503**, as last amended by Laws of Utah 2008, Chapter 38250

51 *Be it enacted by the Legislature of the state of Utah:*

52 Section 1. Section **72-2-117.5** is amended to read:53 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

54 (1) As used in this section:

55 (a) "Council of governments" means a decision-making body in each county composed
56 of the county governing body and the mayors of each municipality in the county.57 (b) "Metropolitan planning organization" has the same meaning as defined in Section
58 72-1-208.5.59 (2) There is created the Local Transportation Corridor Preservation Fund within the
60 Transportation Fund.

61 (3) The fund shall be funded from the following sources:

62 (a) a local option highway construction and transportation corridor preservation fee

imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) interest earnings on cash balances;

(e) all monies collected from rents and sales of real property acquired with fund

monies;

(f) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds;

(g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii) and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund; and

(h) sales and use tax revenues required by Section 59-12-1903 to be deposited into the fund.

(4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund are nonlapsing.

(b) The State Tax Commission shall provide the department with sufficient data for the department to allocate the revenues:

(i) provided under Subsection (3)(a) to each county imposing a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222;

(ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county option sales and use tax for transportation; and

(iii) provided under Subsection (3)(h) to each county of the second class imposing the sales and use tax authorized by Section 59-12-1903.

(c) The monies allocated under Subsection (4)(b):

(i) shall be used for the purposes provided in this section for each county; and

(ii) are allocated to each county as provided in this section:

(A) with the condition that the state will not be charged for any asset purchased with the monies allocated under Subsection (4)(b); and

(B) are considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(d) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) The department shall authorize the expenditure of fund monies to allow a highway authority to acquire real property or any interests in real property for state, county, and municipal highway corridors subject to:

(i) monies available in the fund to each county under Subsection (4)(b); and

(ii) the provisions of this section.

(b) Fund monies may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund monies may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund monies allocated under Subsection (4)(b) may be used by a county highway authority for countywide transportation planning if:

(i) the county is not included in a metropolitan planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation planning, corridor preservation, right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund monies as provided under this section.

(e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county highway authority for transportation corridor planning that is part of the corridor elements of an ongoing work program of transportation projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a

125 metropolitan planning organization; or

126 (B) the department if the county is not within the boundaries of a metropolitan
127 planning organization.

128 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to
129 preserve highway corridors, promote long-term statewide transportation planning, save on
130 acquisition costs, and promote the best interests of the state in a manner which minimizes
131 impact on prime agricultural land.

132 (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve
133 a highway corridor that is right-of-way:

134 (A) in a county of the first or second class for a:

135 (I) state highway;

136 (II) a principal arterial highway as defined in Section 72-4-102.5;

137 (III) a minor arterial highway as defined in Section 72-4-102.5; or

138 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

139 (B) in a county of the third, fourth, fifth, or sixth class for a:

140 (I) state highway;

141 (II) a principal arterial highway as defined in Section 72-4-102.5;

142 (III) a minor arterial highway as defined in Section 72-4-102.5;

143 (IV) a major collector highway as defined in Section 72-4-102.5; or

144 (V) a minor collector road as defined in Section 72-4-102.5.

145 (iii) The Local Transportation Corridor Preservation Fund may not be used for a
146 highway corridor that is primarily a recreational trail as defined under Section ~~[63-11a-101]~~
147 79-5-102.

148 (b) (i) The department shall develop and implement a program to educate highway
149 authorities on the objectives, application process, use, and responsibilities of the Local
150 Transportation Corridor Preservation Fund as provided under this section to promote the most
151 efficient and effective use of fund monies including priority use on designated high priority
152 corridor preservation projects.

153 (ii) The department shall develop a model transportation corridor property acquisition
154 policy or ordinance that meets federal requirements for the benefit of a highway authority to
155 acquire real property or any interests in real property under this section.

(c) The department shall authorize the expenditure of fund monies after determining that the expenditure is being made in accordance with this section from applications that are:

(i) made by a highway authority;

(ii) endorsed by the council of governments; and

(iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

(7) (a) (i) A council of governments shall establish a council of governments endorsement process which includes prioritization and application procedures for use of the monies allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by the:

(A) metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(b) All fund monies shall be prioritized by each highway authority and council of governments based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project;

(v) the cost-effectiveness of the preservation projects;

(vi) long and short-term maintenance costs for property acquired; and

(vii) whether the transportation corridor is included as part of:

(A) the county and municipal master plan; and

(B) (I) the statewide long range plan; or

(II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.

(c) The council of governments shall:

(i) establish a priority list of highway corridor preservation projects within the county;

(ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for

approval; and

(iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the members of the county legislative body.

(d) A county's council of governments may only submit one priority list described in Subsection (7)(c)(i) per calendar year.

(e) A county legislative body may only consider and approve one priority list described in Subsection (7)(c)(i) per calendar year.

(8) (a) Unless otherwise provided by written agreement with another highway authority, the highway authority that holds the deed to the property is responsible for maintenance of the property.

(b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities.

(9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

(b) The highway authority shall pledge the necessary part of the revenues of the Local Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not apply for monies under this section to purchase a right-of-way for a state highway unless the highway authority has:

(i) a transportation corridor property acquisition policy or ordinance in effect that meets federal requirements for the acquisition of real property or any interests in real property under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(9).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the acquisition of real property or any interests in real property under this section.

Section 2. Section **79-5-101** is enacted to read:

CHAPTER 5. RECREATIONAL TRAILS

Part 1. General Provisions

79-5-101. Title.

This chapter is known as "Recreational Trails."

Section 3. Section **79-5-102**, which is renumbered from Section 63-11a-101 is renumbered and amended to read:

[63-11a-101]. 79-5-102. Definitions.

As used in this chapter:

(1) "Board" means the Board of Parks and Recreation.

[(+)] (2) "Council" means the Recreational Trails Advisory Council.

[(2)] (3) "Division" means the Division of Parks and Recreation.

[(3)] (4) "Recreational trail" or "trail" means a multi-use path used for:

(a) muscle-powered activities, including:

(i) bicycling[;];

(ii) cross-country skiing[;];

(iii) walking[;];

(iv) jogging[;]; and

(v) horseback riding[;]; and [other compatible uses.]

(b) uses compatible with the uses described in Subsection (4)(a).

Section 4. Section **79-5-103**, which is renumbered from Section 63-11a-102 is renumbered and amended to read:

[63-11a-102]. 79-5-103. Division to plan and develop recreational trails in cooperation with public and private entities -- Priorities.

(1) The division shall plan and develop a recreational trail system throughout the state [which] that:

(a) provides for outdoor recreation needs; and

(b) facilitates access to, travel within, and enjoyment and admiration of the outdoors.

(2) To assure that an integrated trails network is achieved, the division shall coordinate the planning and development of trails with:

(a) federal land management agencies[;];

(b) local governments[;];

(b) private landowners[;]; and [other]

(d) state agencies.

(3) The division shall give priority to establishing trails ~~[which]~~ that:

(a) cross public lands;

(b) are in proximity or accessible to urban areas;

(c) implement rail-to-trail conversions pursuant to the National Trails System Act, 16

U.S.C. Sec. 1241 et seq.;

(d) provide linkage to existing trails; and

(e) provide linkage or access to natural, scenic, historic, or recreational areas of statewide significance.

~~[(4) Trails shall be selected to minimize adverse impacts to wildlife and the natural environment.]~~

Section 5. Section **79-5-201**, which is renumbered from Section 63-11a-401 is renumbered and amended to read:

Part 2. Advisory Council

~~[63-11a-401].~~ **79-5-201. Recreational Trails Advisory Council.**

(1) The division shall establish a Recreational Trails Advisory Council.

(2) The council shall advise and make recommendations to the ~~[Board]~~ board and ~~[Division of Parks and Recreation]~~ division regarding:

(a) trails to be established;

(b) facilities to be constructed;

(c) development costs;

(d) modes of travel permitted;

(e) law enforcement;

(f) selection of rights-of-way;

(g) interlocal agreements;

(h) selection of signs and markers;

(i) the general administration of trails;

(j) distribution of matching funds pursuant to Section ~~[63-11a-501]~~ 79-5-501; and

(k) future funding mechanisms for trail development.

Section 6. Section **79-5-202**, which is renumbered from Section 63-11a-402 is renumbered and amended to read:

280 ~~[63-11a-402].~~ **79-5-202. Council membership -- Expenses.**

281 (1) The council shall consist of nine members knowledgeable about muscle-powered
282 recreational activities as follows:

283 (a) five members shall represent the public at large;

284 (b) one member, nominated by the Utah League of Cities and Towns, shall represent
285 city government;

286 (c) one member, nominated by the Utah Association of Counties, shall represent
287 county government;

288 (d) one member shall represent the United States Forest Service; and

289 (e) one member shall represent the Bureau of Land Management.

290 (2) (a) Except as required by Subsection (2)(b), as terms of current council members
291 expire, the division shall appoint each new member or reappointed member to a four-year term.

292 (b) Notwithstanding the requirements of Subsection (2)(a), the division shall, at the
293 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
294 council members are staggered so that approximately half of the council is appointed every two
295 years.

296 (3) The council shall elect annually a chair and a vice chair from its members.

297 (4) When a vacancy occurs in the membership for any reason, the division shall
298 appoint the replacement [~~shall be appointed~~] for the unexpired term.

299 (5) (a) (i) [~~Members~~] A member who [~~are~~] is not a government [~~employees shall~~]
300 employee may not receive [~~no~~] compensation or benefits for [~~their services~~] the member's
301 service, but may receive per diem and expenses incurred in the performance of the member's
302 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and
303 63A-3-107.

304 (ii) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the
305 member's service.

306 (b) (i) [~~State~~] A state government officer and employee [~~members~~] member who [~~do~~]
307 does not receive salary, per diem, or expenses from [~~their~~] the agency the member represents
308 for [~~their~~] the member's service may receive per diem and expenses incurred in the
309 performance of [~~their~~] the member's official duties [~~from the council~~] at the rates established by
310 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) ~~[State]~~ A state government officer and employee ~~[members]~~ member may decline to receive per diem and expenses for ~~[their]~~ the member's service.

(c) (i) ~~[Local]~~ A local government ~~[members]~~ member who ~~[do]~~ does not receive salary, per diem, or expenses from the entity that ~~[they]~~ the member represent for ~~[their]~~ the member's service may receive per diem and expenses incurred in the performance of ~~[their]~~ the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) ~~[Local]~~ A local government ~~[members]~~ member may decline to receive per diem and expenses for ~~[their]~~ the member's service.

Section 7. Section **79-5-301**, which is renumbered from Section 63-11a-201 is renumbered and amended to read:

Part 3. Trail Development

~~[63-11a-201].~~ **79-5-301. Guidelines for the establishment of trails.**

~~[The]~~ In establishing trails, the division shall ~~[establish trails in accordance with the following guidelines]:~~

(1) ~~[Development and management of]~~ develop and manage the trails ~~[shall be designed]~~ to harmonize with and complement any existing or planned land uses~~[-];~~

(2) ~~[Projects shall be located and designed pursuant]~~ locate and design trails according to an overall plan that provides for:

(a) interconnecting routes, where feasible; and

(b) consideration of safety~~[-];~~ and

(3) ~~[Trails shall be selected]~~ select trails to minimize adverse effects on ~~[adjacent landowners or users and their property or operations.];~~

(a) an adjacent landowner or user and the landowner's or user's property or operations;

(b) wildlife; and

(c) the natural environment.

Section 8. Section **79-5-302**, which is renumbered from Section 63-11a-103 is renumbered and amended to read:

~~[63-11a-103].~~ **79-5-302. Recreational trail categories.**

The division may plan and develop the following categories of recreational ~~[trail categories may be established]~~ trails as part of the state trails system:

(1) cross-state trails [~~which~~] that connect scenic, natural, historic, geologic, geographic, or other significant features;

(2) water-oriented trails [~~providing~~] that provide a path to or along lakes, streams, or reservoirs;

(3) scenic-access trails [~~which~~] that give access to recreation, scenic, natural, historic, or cultural areas;

(4) urban trails [~~which~~] that connect parks, scenic and natural areas, historical sites, and neighboring communities within a county of the first or second class; and

(5) interpretive trails [~~which~~] that identify:

(a) historic routes; and

(b) significant natural features.

Section 9. Section **79-5-303**, which is renumbered from Section 63-11a-202 is renumbered and amended to read:

~~[63-11a-202].~~ **79-5-303. Establishment of uniform signs and markers.**

The division, in consultation with appropriate federal, state, and local government agencies and private organizations, shall establish uniform signs and markers for the system of recreational trails.

Section 10. Section **79-5-304**, which is renumbered from Section 63-11a-203 is renumbered and amended to read:

~~[63-11a-203].~~ **79-5-304. Public hearings required.**

(1) Prior to establishing any recreational trail under the jurisdiction and control of the division, the division shall conduct a public hearing in the area or areas of the state where the trail is proposed to be located.

(2) Information to be considered at the hearings shall include the following:

~~[(1)]~~ (a) the proposed route of the trail and the recommended modes of travel to be permitted on it;

~~[(2)]~~ (b) any plans to utilize areas adjacent to the trail for scenic, historic, natural, cultural, or developmental purposes;

~~[(3)]~~ (c) the characteristics that, in the judgment of the division, make the proposed trail suitable as a recreational trail;

~~[(4)]~~ (d) the current status of land ownership and the current and potential use of land

373 along the designated route;
374 ~~[(5)]~~ (e) the estimated cost of acquisition of lands or any interest in lands;
375 ~~[(6)]~~ (f) the plans and estimated costs for developing and maintaining the trail;
376 ~~[(7)]~~ (g) any plans for sharing the costs of developing, operating, and maintaining the
377 trail among state, federal, and local governmental entities and private organizations;
378 ~~[(8)]~~ (h) any anticipated problems of policing the trail; and
379 ~~[(9)]~~ (i) any anticipated hazards to private lands adjacent to the trail.

380 Section 11. Section **79-5-401**, which is renumbered from Section 63-11a-301 is
381 renumbered and amended to read:

382 **Part 4. Trail Operation and Maintenance**

383 ~~[63-11a-301].~~ **79-5-401. Cooperative agreements.**

384 The division may enter into cooperative agreements with federal, state, or local
385 governmental entities, private landowners, or private corporations ~~[which]~~ that specify the
386 responsibilities of each entity for the development ~~[and]~~, operation, and maintenance of trails,
387 including law enforcement along trails.

388 Section 12. Section **79-5-501**, which is renumbered from Section 63-11a-501 is
389 renumbered and amended to read:

390 **Part 5. Trail Funding**

391 ~~[63-11a-501].~~ **79-5-501. Grants -- Matching funds requirements -- Rules.**

392 (1) (a) The ~~[division]~~ board may give grants to federal government agencies, state
393 agencies, or local governments for the planning, acquisition, and development of trails within
394 the state's recreational trail system with funds appropriated by the Legislature for that purpose.

395 (b) (i) Each grant recipient must provide matching funds having a value that is equal to
396 or greater than the grant funds received. ~~[However, the Board of Parks and Recreation]~~

397 (ii) The board may allow a grant recipient to provide property, material, or labor in lieu
398 of money, provided the grant recipient's contribution has a value that is equal to or greater than
399 the grant funds received.

400 (2) The ~~[Board of Parks and Recreation]~~ board shall:

401 (a) make rules setting forth procedures and criteria for the awarding of grants for
402 recreational trails; and

403 (b) determine to whom grant funds shall be awarded after considering the

recommendations of and after consulting with the ~~[Recreational Trails Advisory Council]~~
council and the division.

(3) Rules for the awarding of grants for recreational trails shall provide that:

(a) each grant applicant must solicit public comment on the proposed recreational trail
and submit a summary of that comment to the division;

(b) each trail project for which grant funds are awarded must conform to the criteria
and guidelines specified in Sections ~~[63-11a-102, 63-11a-103, and 63-11a-201]~~ 79-5-103,
79-5-301, and 79-5-302; and

(c) trail proposals that include a plan to provide employment opportunities for youth,
including at-risk youth, in the development of the trail ~~[shall be]~~ is encouraged.

(4) As used in this section, "at-risk youth" means youth who:

(a) are subject to environmental forces, such as poverty or family dysfunction, that may
make them vulnerable to family, school, or community problems;

(b) perform poorly in school or have failed to complete high school;

(c) exhibit behaviors ~~[which]~~ that have the potential to harm themselves or others in
the community, such as truancy, use of alcohol or drugs, and associating with delinquent peers;
or

(d) have already engaged in behaviors harmful to themselves or others in the
community.

Section 13. Section **79-5-502**, which is renumbered from Section 63-11a-502 is
renumbered and amended to read:

~~[63-11a-502].~~ **79-5-502. Donations.**

The division may receive, from any person, donated funds, property, or services for
specified or nonspecified uses associated with the planning, acquisition, development, and
administration of recreational trails.

Section 14. Section **79-5-503**, which is renumbered from Section 63-11a-504 is
renumbered and amended to read:

~~[63-11a-504].~~ **79-5-503. Bonneville Shoreline Trail Program.**

(1) There is created the Bonneville Shoreline Trail Program.

(2) The program shall be funded from the following sources:

(a) appropriations made to the program by the Legislature; and

435 (b) contributions from other public and private sources.

436 (3) All monies appropriated to the Bonneville Shoreline Trail Program are nonlapsing.

437 (4) The Bonneville Shoreline Trail is intended to:

438 (a) follow on or near the old Lake Bonneville shoreline terrace near the foot of the

439 Wasatch Mountains from Juab County to Cache County; and

440 (b) provide continuous and safe ~~[routes, paths, or]~~ trails ~~[for pedestrians, bicyclists, and~~

441 ~~equestrian riders, where appropriate]~~.

442 (5) (a) The program monies shall be used to provide grants to local governments for

443 the planning, development, and construction of the Bonneville Shoreline Trail.

444 (b) Grant recipients shall ~~[be required to]~~ provide matching funds in accordance with

445 Section ~~[63-11a-501]~~ 79-5-501.

446 Section 15. **Repealer.**

447 This bill repeals:

448 Section **63-11a-503, Centennial Nonmotorized Paths and Trail Crossings Program**

449 **-- Eligibility and distribution -- Rulemaking.**